

SENATE BILL NO. 393
INTRODUCED BY K. GILLAN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A COURT TO ORDER MEDIATION IN A MARRIAGE DISSOLUTION IN WHICH CUSTODY OF MINOR CHILDREN IS DISPUTED AND THE PARTIES CANNOT AGREE ON THE TERMS OF CUSTODY; AND AMENDING SECTION 40-4-301, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-4-301, MCA, is amended to read:

"40-4-301. Family law mediation -- exception. (1) The district court may at any time consider the advisability of requiring the parties to a proceeding under this chapter to participate in the mediation of the case. Any party may request the court to order mediation. If the parties agree to mediation, the court may require the attendance of the parties or the representatives of the parties with authority to settle the case at the mediation sessions.

(2) If the parties to a proceeding pursuant to this chapter are unable to agree on the terms for the dissolution of their marriage regarding custody of minor children, the court shall require mediation, unless the court finds that the case is not appropriate for mediation. The purposes of mediation may include:

- (a) reducing acrimony between the parties over the custody of or visitation with a minor child;
- (b) the development of a visitation agreement that is in a child's best interests;
- (c) providing the parties with informed choices and, when possible, giving the parties the responsibility for making decisions about child custody and visitation;
- (d) providing a structured, confidential, and nonadversarial setting that will facilitate the cooperative resolution of custody and visitation disputes and minimize the stress and anxiety to which the parties and the child may be subjected; and
- (e) reducing the likelihood of relitigation of custody and visitation disputes.

~~(2)~~(3) The court may not authorize or permit continuation of mediated negotiations if the court has reason to suspect that one of the parties or a child of a party has been physically, sexually, or emotionally abused by the other party.

~~(3)~~(4) The court shall appoint a mediator from the list maintained pursuant to 40-4-306. By agreement of all parties, mediators not on the list may be appointed.

~~(4)~~(5) The court may adopt rules to implement this part."

- END -